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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,891	08/25/2003	Takuji TANAKA	031032	1890

38834 7590 12/12/2006

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EXAMINER

LEE, EUGENE

ART UNIT PAPER NUMBER

2815

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,891

Applicant(s)

TANAKA, TAKUJI

Examiner

Eugene Lee

Art Unit

2815

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 17 is objected to because of the following informalities: in line 9, it appears the semicolon after "includes" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17 thru 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasai 5,821,594 in view of Ono 6,127,711. Kasai discloses (see, for example, FIG. 4) a semiconductor device comprising a gate oxide layer (gate insulation film) 53, gate electrode 54, n+- diffusion layer (source, drain) 58, silicon oxide layer (low permittivity region) 59, silicon oxide layer (first film) 55, and etch stop layer (second film) 56. Kasai does not disclose said low permittivity region being less than 40 nm in height and width. However, Ono discloses (see, for example, Fig. 4D) a semiconductor device comprising an air gap (low permittivity region) 11 wherein Ono discloses (see, for example, column 6, lines 33-39) the silicon nitride layer 7 is etched by 10-30 nm, and, as a result, the silicon nitride layer 7 positioning at the ends of the gate oxide layer 4 are etched to be removed and a groove 9 is formed. In column 6, lines 66-67, Ono discloses the air gaps effectively lower the parasitic capacitance. Therefore, it would have been obvious to one of

Art Unit: 2815

ordinary skill in the art at the time of invention was made to have said low permittivity region being less than 40 nm in height and width because it was well within the skills of an artisan to optimize the performance of a semiconductor device by adjusting the thickness of the air gaps in order to lower parasitic capacitance. See *In re Aller*, 105 USPQ 233.

Regarding claim 18, Kasai discloses (see, for example, column 10, lines 52-55) the etch stop layer being silicon nitride. The silicon oxide layer 59 is made of a lower permittivity material than the sidewall film which is made of a silicon oxide layer 55, and an etch stop layer made of silicon nitride.

Response to Arguments

5. Applicant's arguments with respect to claims 17-19 have been considered but are moot in view of the new ground(s) of rejection.

INFORMATION ON HOW TO CONTACT THE USPTO

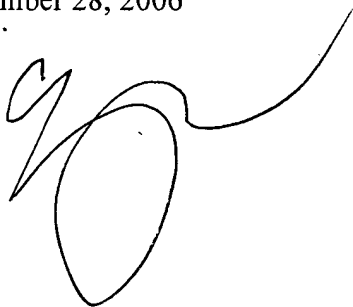
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Lee whose telephone number is 571-272-1733. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Parker can be reached on 571-272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2815

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eugene Lee
November 28, 2006

A handwritten signature in black ink, appearing to be 'Eugene Lee', with a large, stylized 'E' and 'L'.

**EUGENE LEE
PRIMARY EXAMINER**